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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/768,746	01/23/2001	Daylan B. Darby	10559/327001/P9688	3868
20985	7590	10/22/2004	EXAMINER	
FISH & RICHARDSON, PC 12390 EL CAMINO REAL SAN DIEGO, CA 92130-2081			JEAN, FRANTZ B	
		ART UNIT		PAPER NUMBER
		2151		

DATE MAILED: 10/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/768,746	DARBY, DAYLAN B.	
	Examiner Frantz B. Jean	Art Unit 2151	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 19 July 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-33 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_

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This office action is in response to an amendment filed 7/19/04. Claims 1-33 are still pending in this application. Claims 30-33 have been added.

Objection regarding the abstract has been withdrawn.

Claims 1-33 are directed towards a method, machine-readable medium and apparatus for making a timed connection between a client and server.

Specification

2. The abstract of the disclosure is objected to because it does not describe the claimed subject matter of the dependent claims. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Raymond et

al. ("fetchmail (1)", <http://web.archive.org/web/20000903061823/http://tuxedo.org/~esr/fetchmail/fetchmail.html>, dated 9/23/2000, pages 1-41) in view of Fijolek et al. (U.S. Patent No. 6,351,773).

As to claims 1 and 30, Raymond teaches a method comprising:

causing a first device to establish a connection with a second device, enabling data transactions between the first device and the second device (pg. 1, Description section, par. 1; Raymond discloses connecting a client (first device) to a remote mail server (second device) to retrieve mail (data transaction); and

reestablishing a connection between the first device and the second device, enabling another data transaction (pg. 1, Description section, par. 1; Raymond discloses polling (reestablishing a connection) to the remote mail server at a specified interval to retrieve mail).

Raymond fails to teach the limitation of determining if a time-related event has occurred since establishing the connection between the first device and the second device after each of one or more data transactions between the first and the second device; and terminating the connection between the first

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device and the second device at a time based on the occurrence of the time-related event after the data transactions.

However, Fijolek teaches these limitations. Fijolek teaches: determining if a time-related event has occurred since establishing the connection between the first device and the second device (col. 32, lines 53-64; Fijolek discloses determining if a connection timer has expired (time-related event) since establishing a connection); and

terminating the connection between the first device and the second device at a time based on the occurrence of the time-related event after the data transactions (col. 32, lines 53-64; Fijolek discloses disconnecting if the connection timer expires).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Raymond in view of Fijolek so as to set a time limit on the connection between the client and server. One would be motivated to do so to allow the system to 'idle' for a fixed period of time as opposed to indefinitely. 'Idling' saves bandwidth by eliminating TCP/IP connects and login/logout sequences to retrieve new mail, but uses almost all of fetchmail's time. Setting a limit to fetchmail's idling time will allow it to execute other polls.

As to claim 2, the combination of Raymond in view of Fijolek teaches the method of claim 1 in which the time-related event is lapsing of a threshold period of time (col. 32, lines 5364; Fijolek discloses the lapsing of a period of time).

As to claim 3, the combination of Raymond in view of Fijolek teaches the method of claim 2 further comprising setting a timer when the connection is established between the first device and the second device (col. 32, lines 53-64; Fijolek discloses starting a connection timer once a connection is established).

As to claim 4, the combination of Raymond in view of Fijolek teaches the method of claim 3 in which determining if the time-related event has occurred includes determining if the timer has clocked the threshold period of time since the connection was established between the first device and the second device (col. 32, lines 53-64; Fijolek discloses determining if a period of time has passed since establishing the connection).

As to claim 5, the combination of Raymond in view of Fijolek teaches the method of claim 1 in which the data transactions include determining if the second device has data available for transmission across a network to the first device and if data is available, transmitting the data to the first device (pg. 24, see "no fetchall"; Raymond discloses determining if new messages are available on the server (second device) and transmitting the new messages to the client (first device)).

As to claim 6, the combination of Raymond in view of Fijolek teaches the method of claim 5 further comprising, if data is not available, terminating the connection between the first device and the second device (pg. 16, Daemon Mode section, par. 1-3; pg. 24, see "no fetchall"; Raymond discloses periodically polling the server and disconnecting if no new messages are available).

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As to claim 7, the combination of Raymond in view of Fijolek teaches the method of claim 1 further comprising requesting that the second device complete the data transaction before determining if the time-related event has occurred since establishing the connection between the first device and the second device (pg. 2, General Operations section, par. 4-6; Raymond discloses that multiple tasks can be specified in one request (data transaction)).

As to claim 8, the combination of Raymond in view of Fijolek teaches the method of claim 7 in which requesting that the second device complete the data transaction includes requesting that the second device delete data (pg. 3, see "nokeep"; Raymond discloses requesting that the server (second device) deletes retrieved messages).

As to claim 9, the combination of Raymond in view of Fijolek teaches the method of claim 1 further comprising, if the time-related event has not occurred, determining if the second device has data available for transmission to the first device (pg. 16, Daemon Mode section, par. 1-3; Raymond discloses periodically polling the server at an interval that can be set to be less than the connection time limit).

As to claim 10, the combination of Raymond in view of Fijolek teaches the method of claim 1 further comprising establishing a connection across a network between the first device and the second device (pg. 1, Description section, par. 3; Raymond discloses establishing a connection in a TCP/IP network).

Claims 11-20, 30 and 31 represent machine-readable medium claims that correspond to method claims 1-10, respectively. They do not teach or define any new limitations above claims 1-10, and therefore are rejected for similar reasons.

As to claims 21 and 32, Raymond teaches an apparatus comprising:  
a first device configured to connect to a network (pg. 1, Description section, par. 1-3; Raymond discloses a client (first device) configured to connect to a network);

an application accessible by the first device and configured to communicate with a second device configured to connect to the network (pg. 1, Description section, par. 1-3; Raymond discloses that fetchmail (application) is used by the client (first device) to communicate with a remote mail server (second device) over a network); and

the first device completes a data-related transaction with the second device across the network (pg. 1, Description section, par. 1-3; Raymond discloses that the client (first device) retrieves mail from the remote mail server (second device) over a network).

Raymond fails to teach the limitations of a mechanism accessible by the first device and configured to determine if a time-related event has occurred since the first device established a connection with the second device and if so, trigger the termination of the connection.

However Fijolek teaches a mechanism accessible by the first device and configured to determine if a time-related event has occurred since the first device established a connection with the second device and if so, trigger the termination of the connection (col. 32, lines 53-64; Fijolek discloses determining if a connection timer has expired since establishing a connection, and terminating the connection if it has expired).

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It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Raymond in view of Fijolek so as to set a time limit on the connection between the client and server. One would be motivated to do so to allow the system to 'idle' for a fixed period of time as opposed to indefinitely. 'Idling' saves bandwidth by eliminating TCP/IP connects and login/logout sequences to retrieve new mail, but uses almost all of fetchmail's time. Setting a limit to fetchmail's idling time will allow it to execute other polls.

As to claim 22, the combination of Raymond in view of Fijolek teaches the apparatus of claim 21 in which the time-related event is lapsing of a threshold period of time (col. 32, lines 53-64; Fijolek discloses the lapsing of a period of time).

As to claim 23, the combination of Raymond in view of Fijolek teaches the apparatus of claim 21 in which the mechanism is also configured to start a timer when the first device establishes a connection with the second device and to check the timer to determine if the timerrelated event has occurred since the first device established the connection with the second device (col. 32, lines 53-64; Fijolek discloses starting a connection timer upon establishing a connection and determining when the connection timer expires).

As to claim 24, the combination of Raymond in view of Fijolek teaches the apparatus of claim 21 in which the mechanism is also configured to trigger establishment of a new connection between the first device and the second device after the connection is terminated (pg. 1, Description section, par. 1; Raymond discloses polling (establishing a new connection) with the remote mail server at a specified interval to retrieve mail).

As to claims 25 and 33, the Raymond teaches a system comprising:

a server device configured to connect to a network and to store data (pg. 1, Description section, par. 1; remote mail server);

a client device configured to connect to the network and to retrieve data stored at the server device (pg. 1, Description section, par. 1; client); and the client device retrieves data stored at the server device (pg. 1, Description section, par. 1; Raymond discloses that the client retrieves mail from the remote mail server).

Raymond fails to teach the limitation of a mechanism accessible by the client device and configured to determine if a time-related event has occurred since the client device established a connection with the server device and if so, trigger the termination of the connection.

However Fijolek teaches a mechanism accessible by the client device and configured to determine if a time-related event has occurred since the client device established a connection with the server device and if so, trigger the termination of the connection. (col. 32, lines 53-64; Fijolek discloses determining if a connection timer has expired since establishing a connection, and terminating the connection if it has expired).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Raymond in view of Fijolek so as to set a time limit on the connection between the client and server. One would be motivated to do so to allow the system to 'idle' for a fixed period of time as opposed to indefinitely. 'Idling' saves bandwidth by eliminating TCP/IP

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connects and login/logout sequences to retrieve new mail, but uses almost all of fetchmail's time. Setting a limit to fetchmail's idling time will allow it to execute other polls.

As to claim 26, the combination of Raymond in view of Fijolek teaches the system of claim 25 in which the data includes an electronic mail message (pg. 1, Description section, par. 1; mail).

As to claim 27, the combination of Raymond in view of Fijolek teaches the system of claim 25 in which the network includes the Internet (pg. 1, Description section, par. 3; Raymond discloses accessing a remote mail server on a TCP/IP network).

As to claim 28, the combination of Raymond in view of Fijolek teaches the system of claim 25 further comprising a mechanism accessible by the server device and configured to, after the connection is terminated, delete the data retrieved by the client device (pg. 9, see 'expunge'; Raymond discloses that deletions are made on the mail server after ending the mail retrieval session).

As to claim 29, the combination of Raymond in view of Fijolek teaches the system of claim 25 in which the mechanism accessible by the client device is also configured to trigger establishment of a new connection between the client device and the server device after the connection is terminated (pg. 1, Description section, par. 1; Raymond discloses polling (establishing a new connection) with the remote mail server at a specified interval to retrieve mail).

### ***Response to Arguments***

Applicant's arguments filed 7/19/04 have been fully considered but they are not persuasive.

Applicant argued that neither Raymond nor Fijolek teaches determining if a time-related event has occurred, if data is available for transmission and terminating a connection after the at least one or more data transactions.

Examiner submits that Raymond in combination with Fijolek teach all the limitations of the claimed invention as written. Regarding time-related event, applicant states that the timer is a conditional timer. Examiner submits that Fijorek teaches a conditional timer that terminates connection due to an event. Applicant fails to establish in the claim language the condition that coerces the connection termination. The claim

only recites time-related event which is very broad. Therefore, connection expiration event of Fijolek reads on time-related event.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., if data is available for transmission) are not recited in the rejected claim(s) in discussion. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Accordingly, the rejection is maintained.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantz B. Jean whose telephone number is 703 305 3970. The examiner can normally be reached on 8:30-6:00 M-f.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on 703 308-6687. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Frantz Jean



FRANTZ B. JEAN  
PRIMARY EXAMINER